THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.21658 OF 1995

DATED: 07-11-2006

BETWEEN

Sri V. Suryanarayana Rao,
S/o. Sri Govindu, Hyderabad.

...PETITIONER

AND

The Commissioner and Registrar
of Co-operative Societies,
Hyderabad and others

...RESPONDENTS

ORDER:

Petitioner seeks a Writ of Mandamus to declare the action of the first respondent in not passing any orders on his representation dated 23.05.1995 against the order of the third respondent rejecting the leave and culminating the disciplinary proceedings against him and to declare the disciplinary proceedings including the order of dismissal dated 02.09.1995 of the third respondent as illegal and arbitrary.

Petitioner was working as accountant in the Andhra Pradesh Secretariat Staff Cooperative Society Limited – the second respondent herein and he questions the order of dismissal of the third respondent.
Admittedly, the second respondent is a registered Society, but it is not known as to whether it was registered under the provisions of the Andhra Pradesh Cooperative Societies Act or under the provisions of the Societies Registration Act. Whatever it may be, after repealing the Societies Registration Act a new Act has been enacted as Andhra Pradesh Societies

Registration Act, 2001. However, if the major shares of a society do not belong to the State of Andhra Pradesh and if it purely a private society managed by its own byelaws and functions, the said functions and management cannot be terms as statutory functions.

However, the byelaws and actions of the second respondent are not statutory and if that be so, I am of the opinion that against any action of the management on its employees no writ can be issued as the action taken by the society is not statutory. The only course open to the petitioner is to approach the appropriate authority either under the Shops and Establishments Act or under the Industrial Disputes Act.

However, the petitioner was 49 years old at the time of filing the writ petition and assuming that he continued in service he might have already been retired by this time.

Having regard to the facts and circumstances and as the writ itself is not maintainable; I am not inclined to appreciate the contentions raised in the writ petition. The writ petition is accordingly dismissed with liberty to the petitioner to take appropriate action as indicated above in accordance with law. There shall be no order as to costs.

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V. ESWARAIAH, J

November 7, 2006
DSK